



**Advisory Commission on
State Emergency Communications**

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July 25, 1997

Office of the Secretary
Federal Communications Commission
1919 M. Street, N.W., Room 222
Washington, D.C. 20554

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RE: In the Matter of Southwestern Bell Telephone Company's Petition for Forebearance from Application of Section 272 of the Communications Act of 1943, as Amended, to Previously Authorized Services; CC Docket No. 96-149.

Dear Commission Secretary:

Enclosed are an original and fifteen (15 copies) of Comments on behalf of the Texas Advisory Commission on State Emergency Communications ("TX-ACSEC"). Please distribute the filing as appropriate, and file mark the extra copy and return it in the enclosed self-addressed, stamped envelope.

Thank you for your attention in this matter.

Sincerely,

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Before the
FCC MAIL ROOM COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of §
§
Southwestern Bell Telephone Company's § CC Docket No. 96-149
Petition for Forbearance from §
Application of Section 272 of the §
Communications Act of 1943, as §
Amended, to Previously Authorized §
Services §

To: The Commission

**COMMENTS OF THE TEXAS ADVISORY COMMISSION
ON STATE EMERGENCY COMMUNICATIONS**

NOW COMES THE TEXAS ADVISORY COMMISSION ON STATE EMERGENCY COMMUNICATIONS (TX-ACSEC), and submits these COMMENTS in response to the Commission's Notice of Pleading Cycle (DA 97-1459, July 11, 1997) in CC Docket No. 96-149.

I.

Introduction

The supplemental showing by Southwestern Bell Telephone Company and Pacific Bell and Nevada Bell (collectively, "SWBT") clarifies some issues. The supplemental showing also raises some issues and concerns. Applying Section 272 requirements *in toto* should not be necessary to resolve true 9-1-1 issues and concerns. Any 9-1-1 issues and concerns, if they are true 9-1-1 issues, should be resolvable by SWBT and other Bell Operating Companies (BOCs) making a few simple, reasonable stipulations. If SWBT and other BOCs cannot make reasonable

stipulations as to 9-1-1 issues, then further regulatory attention and scrutiny is warranted in other proceedings.

II.

9-1-1 issues and concerns should be resolvable by simple stipulations.

SWBT submits that “the Commission should strive to apply forbearance standards flexibly, particularly in matters of vital public interest such as E911 services which promote safety of life and property.” SWBT letter at p. 3. SWBT further states that “good public policy requires, that the Commission apply these standards flexibly on a case-by-case to account for the myriad of situations that may arise.” Id. TX-ACSEC agrees that a case-by-case evaluation is necessary and that flexibility is essential to protecting the integrity of 9-1-1 service and the public interest. Case-by-case review, flexibility, and reasonableness should also apply to 9-1-1 information.

SWBT argues:

MCI has sought to hold SWBT’s and Pacific’s (and others’) Petitions hostage, using them as leverage to secure from the Commission a ruling that nondiscrimination requirements equivalent to Section 272(c)(1) and (e) should be imposed on the BOCs’ provision of E911 service. However, apart from simply saying it should be so, MCI doesn’t say why, either from a public interest or business perspective.

SWBT letter at p. 9. MCI and others currently use SWBT’s 9-1-1 network and databases if SWBT is the principal 9-1-1 service provider chosen by the PSAP in a particular area. In that situation, MCI and others provide SWBT information in industry standard formats and SWBT provides MCI information needed for 9-1-1 service. MCI, or more likely others, may seek to deploy a more advanced 9-1-1 network (e.g., not a dedicated *analog* CAMA trunk network) and/or enhanced 9-1-1 database services (e.g., wireless Automatic Location Identification [ALI], ALI query, and supplemental ALI) to compete with the BOC. A PSAP wanting these advanced

9-1-1 network and/or enhanced database services may then choose that qualified entity as a new principal service provider for 9-1-1 in that geographic area.¹

SWBT and other BOCs should have no reasonable objection to agreeing to provide 9-1-1 information, *unless it is not really a 9-1-1 issue or is information appropriately obtained from the PSAP.*² SWBT and other BOCs should also have no reasonable objection to agreeing not to challenge or litigate, and to fully cooperate with, PSAPs choosing another qualified provider for advanced 9-1-1 network and/or enhanced database services. The above reasonable stipulations should resolve true 9-1-1 issues and concerns.³

¹ In footnote no. 16 of its supplemental showing, SWBT appears to imply that the competitive checklist requirements in the federal Telecommunications Act of 1996 *mandate* BOC provision of 9-1-1 services. SWBT states, "Indeed, the mere fact of such access [47 U.S.C. 271(c)(2)(B)(vii)(I)] reflects Congress' assumption and that of the telecommunications industry that the BOCs (not any Section 272 affiliates) would remain obligated to provide local service providers access to 911/E911 networks and the associated database processing essential to provision of 911/E911 services." [parenthetical added] First an obligation is not a mandate. A BOC having "carrier of last resort" obligations does not mean that the customer is mandated to choose only the "carrier of last resort." Second, BOCs do not currently provide all 9-1-1 network and/or database services. Other companies, like GTE, are also the principal 9-1-1 service provider in some areas for 9-1-1 network and database services. In addition, some PSAPs have their own 9-1-1 databases and some do network service operations. The reasonable reading of 47 U.S.C. 271(c)(2)(B)(vii)(I) is to apply it only when the BOC is the actual principal service provider chosen by the PSAP for 9-1-1 network and/or database services or when the BOC is providing 9-1-1 network and/or database services under "carrier of last resort" obligations. (A BOC should not be permitted to escape "carrier of last resort" obligations for any customers by establishing a separate affiliate.)

² For example, proper default routing information needed in case of a switch failure can only be obtained from and in concurrence with the local PSAPs: Proper default routing is dependent on the location of the new switch and its coverage area and the understanding of response or transfer responsibilities by the agreed default PSAP.

³ If a BOC is unwilling to make these reasonable stipulations, then legitimate issues for regulatory intervention exists. BOCs have challenged and litigated many aspects of the new competitive local service environment. 9-1-1 service is one area where such litigation is not in the public interest. All the valid policy and public interest justifications stated by SWBT to support granting the forbearance petitions (e.g., "the vital public interest of 9-1-1 service," "good public policy," and "promoting safety of life and property"), compellingly also justify that the provision of 9-1-1 emergency service not become a victim of litigation over a PSAP's right to

III.

SWBT's two proposed options are unacceptable, confusing, and unrealistic.

SWBT states:

[C]ompanies [BOCs] would be faced with two most unattractive options. The first would be to reconfigure their E911 database, transmission and provisioning arrangements to ensure that E911 services are delivered on an exclusively intraLATA basis (thus mooted Section 272). The second would be to form and hire personnel for a new Section 272 affiliate, with its own network and facilities but without any ability to perform operations, installation or maintenance functions on the portions of the BOCs' networks inextricably linked to the delivery of E911 service.

SWBT letter at p. 6. SWBT's first proposed option is unacceptable from a 9-1-1 operational standpoint. This option would be a major step in the wrong direction. Many PSAPs served by SWBT in Texas might likely immediately seek another principal 9-1-1 service provider with a centralized 9-1-1 database if SWBT sought to implement the first option.

SWBT's second option is confusing and unrealistic. SWBT states that "[a]lthough the costs of implementing the second option might seem intuitively to be a bit less (given that option's ability to preserve network efficiencies associated with the current mode of E911 network architecture), that assumption could be overcome by the need to duplicate the BOCs' dedicated E911 network, to hire and train employees,...." SWBT letter at p. 7. But if a separate affiliate were set up in a reasonable manner for the BOC to provide 9-1-1 service, why would there be a duplication of dedicated 9-1-1 network or personnel? Wouldn't the affiliate facing competition from other providers necessarily have to deploy an advanced network and not use the BOC's existing dedicated *analog* CAMA trunk network? Wouldn't the local governments send their Master Street Address Guide (MSAG) information to the affiliate's personnel instead

choose a new principal service provider other than a BOC, when the BOC fails to make the needed service upgrades.

of the BOC's personnel? Whatever the answers to these questions, there are much more simple, acceptable, and realistic resolutions to true 9-1-1 issues and concerns.

SWBT states that "the Commission need not and should not allow the process of regulating the telecommunications industry and administering the Act to cause it to lose sight of what is probably the cardinal purpose of the Commission's being: to promote the safety of life and property through telecommunications." SWBT letter at p. 10. Given this statement by SWBT, as well as SWBT's other statements to explain the need for forbearance, it is difficult to imagine how SWBT could refuse to stipulate to reasonable stipulations as to 9-1-1 service.

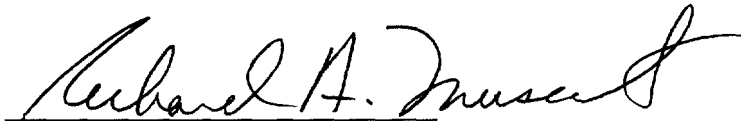
As noted above, SWBT and other BOCs should have no reasonable objection to agreeing to provide 9-1-1 information, *unless it is not really a 9-1-1 issue or is information appropriately obtained from the PSAP*. SWBT and other BOCs should also have no reasonable objection to agreeing not to challenge or litigate, and to fully cooperate with, PSAPs choosing another qualified provider for advanced 9-1-1 network and/or enhanced database services.⁴

⁴ In its comments filed in this proceeding on July 10, 1997, TX-ACSEC explained that PSAPs in Texas and other states face many new quality of service challenges and potential cost issues from local telecommunications competition. A competitive procurement process for advanced 9-1-1 network and/or enhanced database services may potentially address these new quality of service challenges and cost issues. If the BOCs are truly providing the best service at the best price, they should have no objection to competition for these services. If a BOC were to object to PSAPs having competitive options, then the use of the regulatory process becomes essential to protect the public interest. TX-ACSEC noted in its July 10, 1997 comments that "[i]n a competitive checklist review, the Commission and state public utility commissions may wish to consider the issue of *how many analog switches the RBOC is still using for 9-1-1 network purposes in a state and whether such continued use is consistent with the competitive checklist*." (emphasis in original) TX-ACSEC Comments at p. 5. *Any SWBT reply, or failure to reply, about whether its continued use of analog switches for 9-1-1 network purposes is consistent with the competitive checklist should be carefully scrutinized. This is especially true in view of current and future area code splits and the additional connections to the analog tandems necessary for new telecommunications providers in Texas.* If SWBT and other BOCs are unwilling to stipulate to a PSAP's ability to have options other than the BOC to address the lack of advanced 9-1-1 network and/or enhanced database services, then consideration of these issues in a competitive checklist review is necessary.

Conclusion

Applying Section 272 requirements *in toto* should not be necessary to resolve true 9-1-1 issues and concerns. Any 9-1-1 issues and concerns, if they are true 9-1-1 issues, should be resolvable by SWBT and other BOCs making a few simple, reasonable stipulations. If SWBT and other BOCs cannot agree to reasonable stipulations as to 9-1-1 issues and concerns, then further regulatory attention and scrutiny is warranted in other proceedings.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon all required parties, by prepaid United States mail, overnight mail, or via fax, on this 25th day of July 1997.



RICHARD A. MUSCAT